

Appendix A:

Sample School Policies

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Arizona Sample School Policy Prohibiting Harassment and Violence

Prepared by the Office of the
Attorney General

I. GENERAL STATEMENT OF POLICY

It is the policy of this District to maintain a learning environment that is free from harassment because of an individual's race, color, sex, national origin or disability. The School District prohibits any and all forms of harassment because of race, color, sex, national origin, and disability.*

It shall be a violation of District policy for any student, teacher, administrator, or other school personnel of this District to harass a student through conduct of a sexual nature, or regarding race, color, national origin or disability, as defined by this policy.

It shall also be a violation of District policy for any teacher, administrator or other school personnel of this District to tolerate sexual harassment or harassment because of a student's race, color, national origin, ethnicity, or disability, as defined by this policy, by a student, teacher, administrator, other school personnel, or by any third parties who are participating in, observing, or otherwise engaged in activities, including sporting events and other extra curricular activities, under the auspices of the School District.

For purpose of this policy, the term "school personnel" includes school board members, school employees, agents, volunteers, contractors, or persons subject to the supervision and control of the District.

The school system will act to promptly investigate all complaints, either formal or informal, verbal or written, of harassment because of race, color, sex, national origin, or disability; to promptly take appropriate action to protect individuals from further harassment; and, if it determines that unlawful harassment occurred, to promptly and appropriately discipline any student, teacher, administrator or other school personnel who is found to have violated this policy, and/or to take other appropriate action reasonably calculated to end the harassment.**

*This policy should not be read to abrogate other District policies prohibiting other forms of unlawful discrimination, inappropriate behavior, and/or hate crimes within this District. It is the intent of the District that all such policies be read consistently to provide the highest level of protection from unlawful discrimination in the provision of educational services and opportunities.

**This policy is made pursuant to the requirements of 42 U.S.C. sec. 2000d; 20 U.S.C. sec. 1681 et seq.; 29 U.S.C. sec. 791 et seq.; 42 U.S.C. sec. 12131-12134.

II. DEFINITIONS

A. Sexual harassment

For purposes of this policy, sexual harassment of a student consists of unwelcome and unsolicited sexual advances, requests for sexual favors, sexually motivated physical conduct, or other verbal or physical conduct or communication of a sexual nature when:

1. a school employee causes a student to believe that he or she must submit to unwelcome sexual conduct in order to participate in a school program or activity, or when an employee or third party agent of the school district causes a student to believe that the employee will make an educational decision based on whether or not the student submits to unwelcome sexual conduct; or
2. the unwelcome sexual conduct is so severe, persistent or pervasive that it affects a student's ability to participate in or benefit from an educational program or activity, or creates an intimidating, threatening or abusive educational environment.

Examples of conduct which may constitute sexual harassment include

- sexual advances
- touching, patting, grabbing or pinching another person's intimate parts, whether that person is of the same sex or the opposite sex
- coercing, forcing or attempting to coerce or force the touching of anyone's intimate parts
- coercing, forcing or attempting to coerce or force sexual intercourse or a sexual act on another
- graffiti of a sexual nature
- sexual gestures
- sexual or dirty jokes
- touching oneself sexually or talking about one's sexual activity in front of others
- spreading rumors about or rating other students as to sexual activity or performance
- unwelcome, sexually motivated or inappropriate patting, pinching or physical contact. This prohibition does not preclude legitimate, non sexual physical conduct such as the use of necessary restraints to avoid physical harm to persons or property, or conduct such as teacher's consoling hug of a young student, or one student's demonstration of a sports move requiring contact with another student
- other unwelcome sexual behavior or words, including demands for sexual favors, when accompanied by implied or overt threats concerning an individual's educational status or implied or overt promises of preferential treatment.

B. Harassment because of race or color

For purposes of this policy, racial harassment of a student consists of verbal or physical conduct relating to an individual's race or color, when

1. the harassing conduct is sufficiently severe, persistent or pervasive that it affects a student's ability to participate in or benefit from an educational program or activity, or creates an intimidating, threatening or abusive educational environment;

2. the harassing conduct has the purpose or effect of substantially or unreasonably interfering with an individual's academic performance; or

3. the harassing conduct otherwise adversely affects an individual's learning opportunities.

Examples of conduct which may constitute harassment because of race or color include

- graffiti containing racially offensive language
- name calling, jokes or rumors
- threatening or intimidating conduct directed at another because of the other's race or color
- notes or cartoons
- racial slurs, negative stereotypes, and hostile acts which are based upon another's race or color
- written or graphic material containing racial comments or stereotypes which is posted or circulated and which is aimed at degrading individuals or members of protected classes
- a physical act of aggression or assault upon another because of, or in a manner reasonably related to, race or color
- other kinds of aggressive conduct such as theft or damage to property which is motivated by race or color.

C. Harassment based upon National Origin or Ethnicity

For purposes of this policy, ethnic or national origin harassment of a student consists of verbal or physical conduct relating to an individual's ethnicity or country of origin or the country of origin of the individual's parents, family members or ancestors when

1. the harassing conduct is so severe, persistent or pervasive that it affects a student's ability to participate in or benefit from an educational program or activity, or creates an intimidating, threatening or abusive educational environment;
2. the harassing conduct has the purpose or effect of substantially or unreasonably interfering with an individual's work or academic performance; or
3. the harassing conduct otherwise adversely affects an individual's learning opportunities.

Examples of conduct which may constitute harassment because of national origin or ethnicity include

- graffiti containing offensive language which is derogatory to others because of their national origin or ethnicity
- threatening or intimidating conduct directed at another because of the other's national origin or ethnicity
- jokes, name calling, or rumors based upon an individual's national origin or ethnicity
- ethnic slurs, negative stereotypes, and hostile acts which are based upon another's national origin or ethnicity
- written or graphic material containing ethnic comments or stereotypes which is posted or circulated and which is aimed at degrading individuals or members of protected classes
- a physical act of aggression or assault upon another because of, or in a manner reasonably related to, ethnicity or national origin

- other kinds of aggressive conduct such as theft or damage to property which is motivated by national origin or ethnicity.

D. Harassment because of disability

For purposes of this policy, harassment because of the disability of a student consists of verbal or physical conduct relating to an individual's physical or mental impairment when

1. the harassing conduct is so severe, persistent or pervasive that it affects a student's ability to participate in or benefit from an educational program or activity, or creates an intimidating, threatening or abusive educational environment;
2. the harassing conduct has the purpose or effect of substantially or unreasonably interfering with an individual's work or academic performance; or
3. the harassing conduct otherwise adversely affects an individual's learning opportunities.

Examples of conduct which may constitute harassment because of disability include

- graffiti containing offensive language which is derogatory to others because of their physical or mental disability
- threatening or intimidating conduct directed at another because of the other's physical or mental disability
- jokes, rumors or name calling based upon an individual's physical or mental disability
- slurs, negative stereotypes, and hostile acts which are based upon another's physical or mental disability
- graphic material containing comments or stereotypes which is posted or circulated and which is aimed at degrading individuals or members of protected classes
- a physical act of aggression or assault upon another because of, or in a manner reasonably related to, an individual's physical or mental disability
- other kinds of aggressive conduct such as theft or damage to property which is motivated by an individual's physical or mental disability.

III. REPORTING PROCEDURES

Any student who believes he or she has been the victim of sexual harassment or harassment based on race, color, national origin, or disability by a student, teacher, administrator or other school personnel of the School District, or by any other person who is participating in, observing, or otherwise engaged in activities, including sporting events and other extra curricular activities, under the auspices of the School District, is encouraged to immediately report the alleged acts to an appropriate School District official designated by this policy.

Any teacher, administrator, or other school official who has or receives notice that a student has or may have been the victim of sexual harassment or harassment based on race, color, national origin, or disability by a student, teacher, administrator or other school personnel of the School District, or by any other person who is participating in, observing, or otherwise engaged in activities, including sporting events and other extra curricular activities, under the auspices of the School District, is required to immediately report the alleged acts to an appropriate School District official designated by this policy.

Any other person with knowledge or belief that a student has or may have been the victim of sexual harassment or harassment based on race, color, national origin, or disability as set forth above, is encouraged to immediately report the alleged acts to an appropriate School District official designated by this policy.

The School District encourages the reporting party or complainant to use the report form available from the principal of each building or available from the School District office, but oral reports shall be considered complaints as well. Use of formal reporting forms is not mandated. Nothing in this policy shall prevent any person from reporting harassment directly to a District Human Rights officer or to the superintendent.

A. In each school building, the [building principal] is the person responsible for receiving oral or written reports of sexual harassment, or harassment based on race, color, national origin, or disability at the building level. Any adult School District personnel who receives a report of sexual harassment, or harassment based on race, color, national origin, or disability shall inform the building principal immediately.

Upon receipt of a report, the principal must notify the School District Human Rights officer immediately, without screening or investigating the report. The principal may request but may not insist upon a written complaint. A written statement of the facts alleged will be forwarded as soon as practicable by the principal to the Human Rights officer. If the report was given verbally, the principal shall personally reduce it to written form within 24 hours and forward it to the Human Rights officer. Failure to forward any harassment report or complaint as provided herein will result in disciplinary action against the principal. If the complaint involves the building principal, the complaint shall be made or filed directly with the Superintendent or the School District Human Rights officer by the reporting party or the complainant.

B. The School Board has designated: _____

as the School District Human Rights officer with responsibility to identify, prevent, and remedy harassment. The District Human Rights officer shall

- receive reports or complaints of sexual harassment, and harassment based on race, color, national origin, or disability;
- oversee the investigative process;
- be responsible for assessing the training needs of the District's staff and students in connection with the dissemination, comprehension, and compliance with this policy;
- arrange for necessary training required for compliance with this policy; and
- insure that any investigation is conducted by an impartial investigator who has been trained in the requirements of equal educational opportunity, including harassment, and who is able to apply procedural and substantive standards which are necessary and applicable to identify unlawful harassment, recommend appropriate discipline and remedies when harassment is found, and take other appropriate action to rectify the damaging effects of any prohibited discrimination, including interim protection of the victim during the course of the investigation.

If any complaint involves a Human Rights officer, the complaint shall be filed directly with the Superintendent.

The School District shall conspicuously post this policy against harassment and violence in each school that the District maintains, in a place accessible to students, faculty, administrators, employees, parents and members of the public. This notice shall include the name, mailing address and telephone number of the Human Rights officer, [the name, mailing address and telephone number of the state agency responsible for investigating allegations of discrimination in educational opportunities,] and the mailing address and telephone number of the United States Department of Education, Office for Civil Rights.

C. A copy of this policy shall appear in the student handbook and shall be made available upon request of parents, students, and other interested parties.

D. The School Board will develop a method of discussing this policy with students and employees. Training on the requirements of non-discrimination and the appropriate responses to issues of harassment will be provided to all school personnel on an annual basis, and at such other times as the School Board in consultation with the District Human Rights officer determines is necessary or appropriate.

E. This policy shall be reviewed at least annually for compliance with state and federal law.

F. The School District will respect the privacy of the complainant, the individuals against whom the complaint is filed, and the witnesses as much as possible, consistent with the District's legal obligations to investigate, to take appropriate action, and to conform with any discovery or disclosure obligations.

IV. INVESTIGATION

Upon receipt of a report or complaint alleging sexual harassment, or harassment based upon race, national origin, or disability, the Human Rights officer shall immediately undertake or authorize an investigation. That investigation may be conducted by School District officials or by a third party designated by the School District.

The investigation may consist of personal interviews with the complainant, the individual against whom the complaint is filed, and others who have knowledge of the alleged incident or circumstances giving rise to the complaint. The investigation may also consist of the evaluation of any other information or documents which may be relevant to the particular allegations.

In determining whether the alleged conduct constitutes a violation of this policy, the School District shall consider

- the nature of the behavior
- how often the conduct occurred
- whether there were past incidents or past continuing patterns of behavior
- the relationship between the parties involved
- the race, national origin, sex and age of the victim
- the identity of the perpetrator, including whether the perpetrator was in a position of power over the student allegedly subjected to harassment

- the number of alleged harassers
- the age of the alleged harasser
- where the harassment occurred
- whether there have been other incidents in the school involving the same or other students
- whether the conduct adversely affected the student's education or educational environment
- the context in which the alleged incidents occurred.

Whether a particular action or incident constitutes a violation of this policy requires a determination based on all the facts and surrounding circumstances.

The investigation shall be completed [no later than fourteen days from receipt of the report]. The School District Human Rights officer shall make a written report to the Superintendent upon completion of the investigation. If the complaint involves the Superintendent, the report may be filed directly with the School Board. The report shall include a determination of whether the allegations have been substantiated as factual and whether they appear to be violations of this policy. The School District Human Rights officer's obligation to conduct this investigation shall not be extinguished by the fact that a criminal investigation involving the same or similar allegations is also pending or has been concluded.

V. SCHOOL DISTRICT ACTION

A. Upon receipt of a report that a violation has occurred, the School District will take prompt, appropriate formal or informal action to address, and where appropriate, remediate the violation. Appropriate actions may include but are not limited to counseling, awareness training, parent-teacher conferences, warning, suspension, exclusion, expulsion, transfer, remediation, termination or discharge. School District action taken for violation of this policy shall be consistent with the requirements of applicable collective bargaining agreements, state and federal law, and School District policies for violations of a similar nature or similar degree of severity. In determining what is an appropriate response to a finding that harassment in violation of this policy has occurred, the School District shall consider

- what response is most likely to end any ongoing harassment
- whether a particular response is likely to deter similar future conduct by the harasser or others
- the amount and kind of harm suffered by the victim of the harassment
- the identity of the party who engaged in the harassing conduct
- whether the harassment was engaged in by school personnel, and if so, the School District will also consider how it can best remediate the effects of the harassment.

In the event that the evidence suggests that the harassment at issue is also a crime in violation of an Arizona criminal statute, the School Board shall also direct the School District Human Rights officer to report the results of the investigation to the appropriate law enforcement agency charged with responsibility for handling such crimes.

B. The results of the School District's investigation of each complaint filed under these procedures will be reported in writing to the complainant and other parties by the School District in accordance with state and federal laws regarding data or records privacy, and consistent with the privacy rights of the alleged harasser.

C. If the results of the School District's evaluation of a complaint of harassment results in a conclusion that an individual has engaged in unlawful harassment in violation of this policy, or that school personnel have failed to report harassment as required herein, that individual may appeal this determination by use of established School Board procedures for appealing other adverse personnel and/or education related actions. If the results of the School District's evaluation of a complaint of harassment results in a conclusion that no unlawful harassment has occurred, an individual who was allegedly subjected to harassment and believes that this conclusion is erroneous may appeal this determination by use of established School Board procedures for appealing other adverse personnel and/or education related actions.

D. Copies of all complaints of harassment and the investigations conducted pursuant to them shall be maintained for a period of [two years] at the [main administrative offices of the School District].

VI. REPRISAL

Submission of a good faith complaint or report of sexual harassment, or harassment based upon race, color, disability or national origin will not affect the complainant or reporter's future employment, grades, learning or working environment or work assignments.

The School District will discipline or take appropriate action against any student, teacher, administrator or other school personnel who retaliates against any person who reports an incident of alleged sexual, racial, ethnic or disability related harassment or violence, or any person who testifies, assists or participates in a proceeding, investigation or hearing relating to such harassment or violence. Retaliation includes, but is not limited to, any form of intimidation, reprisal or harassment.

REPORT FORM FOR REPORTS OR COMPLAINTS OF SEXUAL HARASSMENT, AND HARASSMENT BECAUSE OF RACE, NATIONAL ORIGIN, AND DISABILITY

Complainant _____

Home Address _____

Work Address _____

Home Phone _____

Work Phone _____

Date of alleged incident(s) _____

Did the incidents involve sexual harassment _____ racial harassment _____ harassment because of national origin _____ harassment because of disability _____ (circle all that apply)

Name of person you believe harassed you or another person: _____

If the alleged harassment was toward another person, identify that other person _____

Describe the incident as clearly as possible, including such things as what force, if any, was used, any verbal statements (i.e. threats, requests, demands, etc.), what, if any physical contact was involved. Attach additional pages as necessary.

When and where did the incident occur? _____

List any witnesses who were present: _____

This complaint is based upon my honest belief that

_____ has harassed me or another person. I hereby certify that the information I have provided in this complaint is true, correct and complete to the best of my knowledge.

(complainant's signature)

(date)

(received by)

(date)

DISTRICT POLICY AGAINST SEXUAL HARASSMENT, AND HARASSMENT BASED UPON RACE, NATIONAL ORIGIN, AND DISABILITY

1. Everyone at _____ has a right to feel respected and safe.

Consequently, we want you to know about our policy to prevent sexual harassment, and harassment because of race, national origin, and disability.

2. A harasser may be a student or an adult. Harassment may include the following when related to sex, race, national origin, or disability:

- a. name calling
- b. pulling on clothing
- c. graffiti
- d. notes or cartoons
- e. unwelcome touching of a person or clothing
- f. offensive or graphic posters or book covers; or
- g. violent acts

3. If any words or actions make you feel uncomfortable or fearful, you need to tell a teacher, counselor, the principal or the Human Rights officer.

4. You may also make a written report. It should be given to a teacher, counselor, the principal or the Human Rights officer.

5. Your right to privacy will be respected as much as possible.

6. We take seriously all reports of sexual harassment, and harassment based upon race, national origin, and disability, and will take all appropriate action to investigate such claims, to eliminate that harassment, and to discipline any persons found to have engaged in such conduct.

7. The School District will also take action if anyone tries to intimidate you or take action to harm you because you made such a report.

8. This is a summary of this district's policy against sexual harassment, and harassment because of race, national origin, and disability. A complete copy of the policy is available at the _____ office upon request.

SEXUAL HARASSMENT AND HARASSMENT BASED ON RACE, NATIONAL ORIGIN, AND DISABILITY ARE AGAINST THE LAW. DISCRIMINATION IS AGAINST THE LAW.

Contact:

Human Rights Officer

Address

Telephone

Minnesota Sample School Board Policy Prohibiting Harassment and Violence

Prepared by the Minnesota School Boards Association

I. GENERAL STATEMENT OF POLICY

It is the policy of Independent School District No. ____ (the "School District") to maintain a learning and working environment that is free from religious, racial or sexual harassment and violence. The School District prohibits any form of religious, racial or sexual harassment and violence.

It shall be a violation of this policy for any pupil, teacher, administrator or other school personnel of the School District to harass a pupil, teacher, administrator or other school personnel through conduct or communication of a sexual nature or regarding religion and race as defined by this policy. (For purposes of this policy, school personnel includes school board members, school employees, agents, volunteers, contractors or persons subject to the supervision and control of the District.)

It shall be a violation of this policy for any pupil, teacher, administrator or other school personnel of the School District to inflict, threaten to inflict, or attempt to inflict religious, racial or sexual violence upon any pupil, teacher, administrator or other school personnel.

The School District will act to investigate all complaints, either formal or informal, verbal or written, of religious, racial or sexual harassment or violence, and to discipline or take appropriate action against any pupil, teacher, administrator or other school personnel who is found to have violated this policy.

II. RELIGIOUS, RACIAL AND SEXUAL HARASSMENT AND VIOLENCE DEFINED

A. Sexual Harassment: Definition. Sexual harassment consists of unwelcome sexual advances, requests for sexual favors, sexually motivated physical conduct or other verbal or physical conduct or communication of a sexual nature when:

- (i) submission to that conduct or communication is made a term or condition, either explicitly or implicitly, of obtaining or retaining employment, or of obtaining an education; or
- (ii) submission to or rejection of that conduct or communication by an individual is used as a factor in decisions affecting that individual's employment or education; or
- (iii) that conduct or communication has the purpose or effect of substantially or unreasonably interfering with

an individual's employment or education, or creating an intimidating, hostile or offensive employment or educational environment.

Sexual harassment may include but is not limited to:

- (i) unwelcome verbal harassment or abuse;
- (ii) unwelcome pressure for sexual activity;
- (iii) unwelcome, sexually motivated or inappropriate patting, pinching or physical contact, other than necessary restraint of pupil(s) by teachers, administrators or other school personnel to avoid physical harm to persons or property;
- (iv) unwelcome sexual behavior or words, including demands for sexual favors, accompanied by implied or overt threats concerning an individual's employment or educational status;
- (v) unwelcome sexual behavior or words, including demands for sexual favors, accompanied by implied or overt promises of preferential treatment with regard to an individual's employment or educational status; or
- (vi) unwelcome behavior or words directed at an individual because of gender.

B. Racial Harassment: Definition. Racial harassment consists of physical or verbal conduct relating to an individual's race when the conduct:

- (i) has the purpose or effect of creating an intimidating, hostile or offensive working or academic environment;
- (ii) has the purpose or effect of substantially or unreasonably interfering with an individual's work or academic performance; or
- (iii) otherwise adversely affects an individual's employment or academic opportunities.

C. Religious Harassment: Definition. Religious harassment consists of physical or verbal conduct which is related to an individual's religion when the conduct:

- (i) has the purpose or effect of creating an intimidating, hostile or offensive working or academic environment;
- (ii) has the purpose or effect of substantially or unreasonably interfering with an individual's work or academic performance; or
- (iii) otherwise adversely affects an individual's employment or academic opportunities.

D. Sexual Violence: Definition. Sexual violence is a physical act of aggression or force or the threat thereof which involves the touching of another's intimate parts, or forcing a person to touch any person's intimate parts. Intimate parts, as defined in Minnesota Statutes Section 609.341, include the

primary genital area, groin, inner thigh, buttocks or breast, as well as the clothing covering these areas.

Sexual violence may include, but is not limited to:

- (i) touching, patting, grabbing or pinching another person's intimate parts, whether that person is of the same sex or the opposite sex;
- (ii) coercing, forcing or attempting to coerce or force the touching of anyone's intimate parts;
- (iii) coercing, forcing or attempting to coerce or force sexual intercourse or a sexual act on another; or
- (iv) threatening to force or coerce sexual acts, including the touching of intimate parts or intercourse, on another.

E. Racial Violence: Definition. Racial violence is a physical act of aggression or assault upon another because of, or in a manner reasonably related to, race.

F. Religious Violence: Definition. Religious violence is a physical act of aggression or assault upon another because of, or in a manner reasonably related to, religion.

G. Assault: Definition. Assault is:

- (i) an act done with intent to cause fear in another of immediate bodily harm or death;
- (ii) the intentional infliction of or attempt to inflict bodily harm upon another; or
- (iii) the threat to do bodily harm to another with present ability to carry out the threat.

III. REPORTING PROCEDURES

Any person who believes he or she has been the victim of religious, racial or sexual harassment or violence by a pupil, teacher, administrator or other school personnel of the School District, or any person with knowledge or belief of conduct which may constitute religious, racial or sexual harassment or violence toward a pupil, teacher, administrator or other school personnel should report the alleged acts immediately to an appropriate School District official designated by this policy. The School District encourages the reporting party or complainant to use the report form available from the principal of each building or available from the School District office, but oral reports shall be considered complaints as well. Nothing in this policy shall prevent any person from reporting harassment or violence directly to a District Human Rights Officer or to the Superintendent.

A. In Each School Building. The building principal is the person responsible for receiving oral or written reports of religious, racial or sexual harassment or violence at the building level. Any adult School District personnel who receives a report of religious, racial or sexual harassment or violence shall inform the building principal immediately.

Upon receipt of a report, the principal must notify the School

District Human Rights Officer immediately, without screening or investigating the report. The principal may request, but may not insist upon, a written complaint. A written statement of the facts alleged will be forwarded as soon as practicable by the principal to the Human Rights Officer. If the report was given verbally, the principal shall personally reduce it to written form within 24 hours and forward it to the Human Rights Officer. Failure to forward any harassment or violence report or complaint as provided herein will result in disciplinary action against the principal. If the complaint involves the building principal, the complaint shall be made or filed directly with the Superintendent or the School District Human Rights Officer by the reporting party or complainant.

B. In the District. The School Board hereby designates _____ as the School District Human Rights Officer(s) to receive reports or complaints of religious, racial or sexual harassment or violence. If the complaint involves a Human Rights Officer, the complaint shall be filed directly with the Superintendent. (In some School Districts the Superintendent may be the Human Rights Officer. If so, an alternative individual should be designated by the School Board.)

The School District shall conspicuously post the name of the Human Rights Officer(s), including mailing addresses and telephone numbers.

C. Submission of a good faith complaint or report of religious, racial or sexual harassment or violence will not affect the complainant or reporter's future employment, grades or work assignments.

D. Use of formal reporting forms is not mandatory.

E. The School District will respect the privacy of the complainant, the individual(s) against whom the complaint is filed, and the witnesses as much as possible, consistent with the School District's legal obligations to investigate, to take appropriate action, and to conform with any discovery or disclosure obligations.

IV. INVESTIGATION

By authority of the School District, the Human Rights Officer, upon receipt of a report or complaint alleging religious, racial or sexual harassment or violence, shall immediately undertake or authorize an investigation. The investigation may be conducted by School District officials or by a third party designated by the School District.

The investigation may consist of personal interviews with the complainant, the individual(s) against whom the complaint is filed, and others who may have knowledge of the alleged incident(s) or circumstances giving rise to the complaint. The investigation may also consist of any other methods and documents deemed pertinent by the investigator.

In determining whether alleged conduct constitutes a violation of this policy, the School District should consider the surrounding circumstances, the nature of the behavior, past incidents or past or continuing patterns of behavior, the relationships between the parties involved and the context in

which the alleged incidents occurred. Whether a particular action or incident constitutes a violation of this policy requires a determination based on all the facts and surrounding circumstances.

In addition, the School District may take immediate steps, at its discretion, to protect the complainant, pupils, teachers, administrators or other school personnel pending completion of an investigation of alleged religious, racial or sexual harassment or violence.

The investigation will be completed as soon as practicable. The School District Human Rights Officer shall make a written report to the Superintendent upon completion of the investigation. If the complaint involves the Superintendent, the report may be filed directly with the School Board. The report shall include a determination of whether the allegations have been substantiated as factual and whether they appear to be violations of this policy.

V. SCHOOL DISTRICT ACTION

A. Upon receipt of a report, the School District will take appropriate action. Such action may include, but is not limited to: warning, suspension, exclusion, expulsion, transfer, remediation, termination or discharge. School District action taken for violation of this policy will be consistent with requirements of applicable collective bargaining agreements, Minnesota and federal law and School District policies.

B. The result of the School District's investigation of each complaint filed under these procedures will be reported in writing to the complainant by the School District in accordance with state and federal law regarding data or records privacy.

VI. REPRISAL

The School District will discipline or take appropriate action against any pupil, teacher, administrator or other school personnel who retaliates against any person who reports alleged religious, racial or sexual harassment or violence or any person who testifies, assists or participates in an investigation, or who testifies, assists or participates in a proceeding or hearing relating to such harassment or violence. Retaliation includes, but is not limited to, any form of intimidation, reprisal or harassment.

VII. RIGHT TO ALTERNATIVE COMPLAINT PROCEDURES

These procedures do not deny the right of any individual to pursue other avenues of recourse which may include filing charges with the Minnesota Department of Human Rights, initiating civil action or seeking redress under state criminal statutes and/or federal law.

VIII. HARASSMENT OR VIOLENCE AS ABUSE

Under certain circumstances, alleged harassment or violence may also be possible abuse under Minnesota law. If so, the duties of mandatory reporting under Minnesota Statutes Section 626.556 may be applicable.

Nothing in this policy will prohibit the School District from taking immediate action to protect victims of alleged harassment, violence or abuse.

IX. DISSEMINATION OF POLICY AND TRAINING

A. This policy shall be conspicuously posted throughout each school building in areas accessible to pupils and staff members.

B. This policy shall appear in the student handbook.

C. The School District will develop a method of discussing this policy with students and employees.

D. This policy shall be reviewed at least annually for compliance with state and federal law.

INDEPENDENT SCHOOL DISTRICT NO. ____ RELIGIOUS, RACIAL OR SEXUAL HARASSMENT AND VIOLENCE REPORT FORM

General Statement of Policy Prohibiting Religious, Racial or Sexual Harassment

Independent School District No. ____ maintains a firm policy prohibiting all forms of discrimination. Religious, racial or sexual harassment or violence against students or employees is discrimination. All persons are to be treated with respect and dignity. Sexual violence, sexual advances or other forms of religious, racial or sexual harassment by any pupil, teacher, administrator or other school personnel, which create an intimidating, hostile or offensive environment will not be tolerated under any circumstances.

Complainant _____
Home _____
Address _____
Work _____
Address _____
Home Phone _____
Work Phone _____
Date of Alleged Incident(s) _____
Circle as appropriate: sexual racial religious.
Name of person you believe harassed or was violent toward you or another person.

If the alleged harassment or violence was toward another person, identify that person. _____

Describe the incident(s) as clearly as possible, including such things as: what force, if any, was used, any verbal statements (i.e. threats, requests, demands, etc.); what, if any, physical contact was involved, etc. (Attach additional pages if necessary.)

Where and when did the incident(s) occur?

List any witnesses who were present.

This complaint is filed based on my honest belief that _____ has harassed or has been violent to me or to another person. I hereby certify that the information I have provided in this complaint is true, correct and complete to the best of my knowledge and belief.

(Complainant Signature) _____ (Date) _____
Received by _____ (Date) _____

*** ATTENTION ***

DISTRICT ____ POLICY AGAINST RELIGIOUS, RACIAL AND SEXUAL HARASSMENT AND VIOLENCE

1. Everyone at District ____ has a right to feel respected and safe. Consequently, we want you to know about our policy to prevent religious, racial or sexual harassment and violence of any kind.

2. A harasser may be a student or an adult. Harassment may include the following when related to religion, race, sex or gender:

- name calling, jokes or rumors;
- pulling on clothing;
- graffiti;
- notes or cartoons;
- unwelcome touching of a person or clothing;
- offensive or graphic posters or book covers; or
- any words or actions that make you feel uncomfortable, embarrass you, hurt your feelings or make you feel bad.

3. If any words or action make you feel uncomfortable or fearful, you need to tell a teacher, counselor, the principal or the Human Rights Officer, _____

4. You may also make a written report. It should be given to a teacher, counselor, the principal or the Human Rights Officer.

5. Your right to privacy will be respected as much as possible.

6. We take seriously all reports of religious, racial or sexual harassment or violence and will take all appropriate actions based on your report.

7. The School District will also take action if anyone tries to intimidate you or take action to harm you because you have reported.

8. This is a summary of the School District policy against religious, racial and sexual harassment and violence. Complete policies are available in the _____ office upon request.

RELIGIOUS, RACIAL AND SEXUAL HARASSMENT AND
VIOLENCE ARE AGAINST THE LAW.
DISCRIMINATION IS AGAINST THE LAW.

CONTACT: _____
HUMAN RIGHTS OFFICER

Vermont Model Anti-Harassment Policy

Prepared by the
State Department of Education

MEMORANDUM

Date: January 19, 1995
From: Richard P. Mills, Commissioner
To: All Superintendents and Principals of Public and Independent Schools
Subject: Anti-Harassment Policies and Procedures

As you may recall, the 1994 Legislature enacted S-313, a bill that requires that all school districts and independent schools to have anti-harassment policies and procedures in place by August 1, 1995.

In conjunction with the Vermont Human Rights Commission and the Governor's Commission on Women, my colleagues have drafted a model policy and set of procedures for you to consider for adoption by your respective boards. This model was developed with the assistance of educational and community leaders from around Vermont. I am proud of the product of this collaboration and am providing you a copy of that work as an attachment. I also want to publicly thank Sara Lee and Susan Egerton-Donnon, Governors Commission on Women, and Susan Sussman, Vermont Human Rights Commission, for their time and assistance to this project.

You are not required to adopt this model policy. You are required to adopt a policy that meets the statutory requirements by the above deadline. You may craft your own or adopt a model that meets your needs. There are other examples of model policies and procedures for your consideration. [e.g. the Vermont School Boards Association, in conjunction with other members of the Vermont Education Coalition, has developed a policy that you may want to consider.]

Please note that there are no specific training requirements in the procedures. However, the procedures include the statutory requirement that boards develop and initiate age-appropriate programs to effectively inform students and staff of the substance of the policy and procedures. I also strongly suggest that, at a minimum, the persons who will deal with the complaints receive training in cultural diversity, investigation techniques and the statutory requirements. My colleagues will be developing a list of training and funding sources to assist you.

Whatever model you use, I recommend that you involve all the members of your educational community in the discussions concerning wording and adoption. All parents, teachers, students and other community members have a stake in maintaining a safe, harassment-free school environment.

MODEL ANTI-HARASSMENT POLICY **

General Statement of Policy

The _____ Supervisory Union and/or School District is committed to providing all students with a safe and supportive school environment. Members of the school community are expected to treat each other with mutual respect *[and to accept the rich diversity which makes up the community. Disrespect among members of the school community is unacceptable behavior which threatens to disrupt the learning environment and decrease self-esteem.]*

Harassment is a form of unlawful discrimination as well as disrespectful behavior which will not be tolerated.

It is hereby the policy of the _____ Supervisory Union/School District to oppose and prohibit, without qualification, unlawful harassment based on race, color, religion (creed), national origin, marital status, sex, sexual orientation, or disability.

Any unlawful harassment of a student by a member of the school community is a violation of this policy.

The _____ Supervisory Union/School District shall act to investigate all complaints of harassment, either formal or informal, verbal or written, and to discipline or take other appropriate action against any member of the school community who is found to have violated this policy.

Definitions

School community includes but is not limited to all students, school employees, contractors, unpaid volunteers and other visitors.

School Employee includes but is not limited to all teachers, support staff, administrators, bus drivers, custodians, cafeteria workers, coaches, school board members and agents of the school.

Unlawful Harassment means verbal or physical conduct based on a student's actual or perceived race, religion (creed), color, national origin, marital status, sex, sexual orientation or disability and which has the purpose or effect of substantially interfering with a student's educational performance or creating an intimidating, hostile or offensive environment. *Vermont Statutes, Title 16, Section 11(a)(26).*

Harassment can include any unwelcome verbal, written or physical conduct which offends, denigrates, or belittles any individual because of any of the characteristics described above. Such conduct includes, but is not limited to unsolicited derogatory remarks, jokes, demeaning comments or behavior, slurs, mimicking, name calling, graffiti, innuendo, gestures, physical contact, stalking, threatening, bullying, extorting or the display or circulation of written materials or pictures. These apply to all of the characteristics listed above. For more specific examples, see page 3 of this policy.

*** [Italics and brackets indicate language that is not required but is recommended as best practice]*

Sexual Harassment means unwelcome sexual advances, requests for sexual favors and other verbal or physical conduct of a sexual nature when:

(A) Submission to that conduct is made either explicitly or implicitly a term or condition of a student's education.

(B) Submission to or rejection of such conduct by a student is used as a component of the basis for decisions affecting that student.

(C) The conduct has the purpose or effect of substantially interfering with a student's educational performance or creating an intimidating, hostile or offensive educational environment. *Vermont Statutes, Title 16, Section 11(a)(26).*

This applies whether the harassment is between people of the same or different gender. Sexual harassment can include unwelcome verbal, written or physical conduct, directed at or related to a person's gender, such as sexual gossip or personal comments of a sexual nature, sexually suggestive or foul language, sexual jokes, whistling, spreading rumors or lies of a sexual nature about someone, demanding sexual favors, forcing sexual activity by threat of punishment or offer of educational reward, obscene graffiti, display or sending of pornographic pictures or objects, offensive, touching, pinching, grabbing, kissing or hugging or restraining someone's movement in a sexual way.

Additional examples of specific types of prohibited harassment are listed below.

Racial and Color Harassment

Racial or color harassment can include unwelcome verbal, written or physical conduct, directed at the characteristics of a person's race or color, such as nicknames emphasizing stereotypes, racial slurs, comments on manner of speaking, and negative references to racial customs.

Religious (Creed) Harassment

Harassment on the basis of religion or creed is unwelcome verbal, written or physical conduct, directed at the characteristics of a person's religion or creed, such as derogatory comments regarding surnames, religious tradition, or religious clothing, or religious slurs, or graffiti.

National Origin Harassment

Harassment on the basis of national origin is unwelcome verbal, written or physical conduct, directed at the characteristics of a person's national origin, such as negative comments regarding surnames, manner of speaking, customs, language, or ethnic slurs.

Marital Status Harassment

Harassment on the basis of marital status is unwelcome verbal, written or physical conduct, directed at the characteristics of a person's marital status, such as comments regarding pregnancy or being an unwed mother or father.

Sexual Orientation Harassment

Harassment on the basis of sexual orientation is unwelcome verbal, written or physical conduct, directed at the characteristics of a person's sexual orientation, such as negative name calling and imitating mannerisms.

Disability Harassment

Disability harassment includes harassment based on a person's disabling mental or physical condition and includes any unwelcome verbal, written or physical conduct, directed at the characteristics of a person's disabling condition, such as imitating manner of speech or movement, or interference with necessary equipment.

Retaliation

It is a separate and distinct violation of this policy for any member of the school community to retaliate against any person who reports alleged harassment or against any person who testifies, assists or participates in an investigation, proceeding or hearing relating to such harassment. It is possible that an alleged harasser may be found to have violated this anti-retaliation provision even if the underlying complaint of harassment is not found to be a violation of this policy. Retaliation includes, but is not limited to any form of intimidation, reprisal or harassment and may be redressed through application of the same reporting, investigation, and enforcement procedures as for harassment. *[In addition, a person who knowingly makes a false report may be subject to the same action that the Supervisory Union and/or School District may take against any other individual who violates this policy. The term "false report" refers only to those made in bad faith and does not include a complaint that could not be corroborated or which did not rise to the level of unlawful harassment.]*

Consequences

Any school employee or student that is found to have violated this policy may be subject to action including, but not limited to, warning, remedial training, education or counseling, suspension, exclusion, expulsion, transfer, termination or discharge.

**** RECOMMENDED PROCEDURES FOR IMPLEMENTATION OF MODEL ANTI-HARASSMENT POLICY**

Reporting

Any school employee who observes, overhears or otherwise witnesses harassment, which may be unlawful, or to whom such harassment is reported, must take prompt and appropriate action to stop the harassment and to prevent its reoccurrence. A written report of the incident and the action taken by the school employee in response to it must also be given to the appropriate Supervisory Union/School District/harassment complaint official designated to oversee the handling of harassment complaints.

In the event that the school employee is unable to personally take prompt and appropriate action, the employee must report the incident or complaint in writing to the appropriate Supervisory Union/School District/harassment complaint official(s) designated by this policy.

Any student or other person who believes that unlawful harassment of a student has occurred may inform any school employee or one of the harassment complaint officials.

Any student who believes that s/he has been the target of unlawful harassment as defined in this policy may bring their complaint to the attention of any school employee or the harassment complaint official. Any student who believes that any corrective action taken by a school employee was ineffective may bring their complaint to the attention of the harassment complaint official. The complaint may be made either orally or in writing. The following are the harassment complaint officials:

_____ (name)
 _____ (title)
 _____ (name)
 _____ (title)

If one of the harassment complaint officials is the person alleged to be engaged in the harassment, the complaint shall be filed with one of the alternative officials or any other school employee the student chooses.

*** [Italics and brackets indicate language that is not required but is recommended as best practice]*

[Process
Informal Procedure

It may be possible to resolve a complaint through a voluntary conversation between the complaining student and the alleged harasser which is facilitated by a school employee or by a designated harassment complaint official. If the complaining student or alleged harasser is a student under the age of 18, the harassment complaint official should notify the student's parent(s)/guardian(s) if, after initial consultation with the student, it is determined to be in the best interests of the student. Both the complaining student and the alleged harasser may be accompanied by a person of their choice for support and guidance. If the complaining student and the alleged harasser feel that a resolution has been achieved, then the conversation may remain confidential and no further action needs to be taken. The results of an informal resolution shall be reported by the facilitator, in writing, to the Superintendent and to the School Principal.

If the complaining student, the alleged harasser, or the school employee/harassment complaint official, chooses not to utilize the informal procedure, or feels that the informal procedure is inadequate or has been unsuccessful, s/he may proceed to the formal procedure. Any complaint against a school employee shall be handled through the formal procedure.

Formal Procedure

Step 1

The harassment complaint official shall fill out a harassment complaint form based on the written or verbal allegations of the complaining student. This complaint form shall be kept in a centralized and secure location.

A) The complaint form shall detail the facts and circumstances of the incident or pattern of behavior.

B) If a student under 18 years of age is involved, his/her parents shall be notified immediately unless, after consultation with the student, it is determined not to be in the best interests of the student.

C) An investigation shall be completed by the harassment complaint official within 14 calendar days from the date of the complaint or report.

Step 2

The investigation may consist of personal interviews with the complaining student, the alleged harasser and any other individuals who may have knowledge of the alleged incident(s) or circumstances giving rise to the complaint. In determining whether alleged conduct constitutes a violation of this policy, the harassment complaint official should consider the surrounding circumstances, any relevant documents, the nature of the behavior, past incidents or past or continuing patterns of behavior, the relationships between the parties involved and the context in which the alleged incidents occurred. Whether a particular action or incident constitutes a violation of this policy requires a determination based on all the facts and surrounding circumstances.

In addition, the _____ Supervisory Union and/or School District may take immediate steps, at its discretion, to protect the complaining student, alleged harasser, witnesses, and school employees pending completion of an investigation of alleged harassment and may make any appropriate referrals for assistance, including but not limited to counseling, rape crisis intervention, etc.

The investigation will be completed as soon as practicable, but no later than fourteen (14) calendar days from the complaint or report. The harassment complaint official shall make a written report to the Superintendent and the School Principal upon completion of the investigation. The report shall include a determination as to whether the allegations have been substantiated as factual and whether they appear to be violations of this policy.

Step 3

Following the investigation, the harassment complaint official shall recommend to the Superintendent and/or School Principal what action, if any, is required. The Supervisory Union and/or School District shall take appropriate action in all cases where the harassment complaint official concludes that this

policy has been violated.. Any person who is determined to have violated this policy shall be subject to action, including but not limited to, warning, exclusion, suspension, expulsion, transfer, termination, discharge or any other remedial action, including but not limited to, training, education, or counseling. Action taken for violation of this policy shall be consistent with the requirements of any applicable collective bargaining agreement, Supervisory Union and/or School District policy, state and federal law, including but not limited to the due process protections for students with disabilities.

Step 4

The Superintendent and/or School Principal shall maintain the written report of the investigation and results in his/her office. In the case of an investigation conducted by a school district, the Superintendent shall receive a copy of the investigation report and results. If the harassment complaint official concludes that the policy has been violated by a professional educator or administrator, a report of the findings shall be filed with the Licensing Office of the Vermont Department of Education.

The complaining student and the alleged harasser shall be informed of the results of the investigation, including whether the allegations were found to be factual, whether there was a violation of the policy, and whether disciplinary action was or will be taken.]

[* * * Reporting of potential physical and/or sexual abuse

Several behaviors listed as sexual harassment (i.e., sexual touching, grabbing, pinching, being forced to kiss someone, being forced to do something other than kissing, sexual assault) may also constitute physical or sexual abuse. Sexual abuse is defined as any act or acts by any person involving sexual molestation or exploitation of a child, including but not limited to incest, prostitution, rape, sodomy or any lewd or lascivious conduct involving a child. Thus, under certain circumstances, alleged harassment may also be possible physical and/or sexual abuse under Vermont law. Such harassment or abuse is subject to the duties of mandatory reporting and must be reported to the Department of Social and Rehabilitation Services (SRS) within 24 hours of the time the educator becomes aware of the suspected abuse. Vermont Statutes, Title 33, Section 4911 *et seq.*] * * * **(While not absolutely required by the statute, recent events and an Attorney General's Opinion lead us to recommend that something like this paragraph be included in the procedures.)**

[Confidentiality]

The _____ Supervisory Union and/or School District recognizes that both the complaining student and the alleged harasser have strong interests in maintaining the confidentiality of the allegations and related information. The privacy of the complaining student, the individual(s) against whom the complaint is filed, and the witnesses will be respected as much as possible, consistent with legal obligations to investigate, to take appropriate action, and to comply with any discovery or disclosure obligations.]

Alternative Complaint Procedures

In addition to, or instead of, filing a harassment complaint through this policy, a person may choose to exercise other options, including but not limited to filing a complaint with outside agencies or filing a private lawsuit.

Outside Agencies

A charge of harassment may also be investigated by the Vermont Human Rights Commission, [*the Vermont Department of Education,*] or the Office for Civil Rights of the U.S. Department of Education which may be contacted as follows:

Office for Civil Rights, U.S. Department of Education, Region 1
McCormack Post Office and Courthouse
Room 222, Post Office Square
Boston, MA 02109-4557
(617) 223-9662

Vermont Human Rights Commission
135 State Street (2nd Floor)
Drawer 33
Montpelier, VT 05633-1201
(802) 828-2480

[*Vermont Department of Education*
120 State Street
Montpelier, VT 05620-2501
(802) 828-3135]

[Litigation]

A student who has been harassed may file a lawsuit under a number of federal or state statutes (including Titles IV, VI, and IX of the federal Civil Rights Act of 1964, the Rehabilitation Act of 1973 and the Vermont Public Accommodations Act). He or she or his/her parent should consult with a private attorney about these rights and options.]

Notice and Publication

The School Board shall provide notice of the policy and procedures to students, custodial parents or guardians and school employees. Notice to students shall be in age-appropriate language and should include examples of harassment. At a minimum, the policy shall be conspicuously posted throughout each school building in areas accessible to all members of the school community. The notice shall also appear in the school handbook and any other publication of the school district that sets forth the comprehensive rules, procedures and standards of conduct for the school. There shall be procedures for publicizing, on an annual basis, the identity of the harassment complaint officials who are designated to receive complaints. The board shall use its discretion in developing and initiating age-appropriate programs to effectively inform students and school employees about the substance of the policy and procedures in order to help prevent harassment.

Rules of the West Virginia Board of Education

Executive Summary

Policy 2421

Racial, Sexual, Religious/Ethnic Harassment and Violence Policy

Public Comment Period Ended: November 15, 1996

Adopted: December 12, 1996

Background:

Incidents of harassment against students and in some cases against school personnel seem to be increasing. Student performance in school can be adversely affected when harassment of any kind is present. School staff should also be protected from any form of harassment. Educational institutions should play a significant role in the process of eliminating all types of harassment. In 1994, the U.S. Office of Civil Rights recognized the commonalities of sexual and racial/ethnic harassment and in 1992 the Supreme Court (Franklin vs. Gwinnett County) held school districts legally responsible for protecting students from sexual harassment by their staff members. Schools also have a moral and legal responsibility to prevent student to student harassment which occurs more often.

Purpose:

The purpose of these regulations is to assure that neither students nor staff are subjected to racial, sexual or religious/ethnic harassment or violence, to outline prevention programs and reporting procedures and to delineate penalties for violations of this policy. It is the intent of the West Virginia Board of Education to assure that the learning and working environment is free from any type of harassment or violence.

Contents:

This policy defines harassment and violence, outlines reporting procedures and requires the development of prevention programs.

Comments:

The policy has been on public comment since September 1996. Approximately 30 individuals submitted comments and extensive suggested changes or additions were made by the West Virginia Human Rights Commission. Most of the comments were requesting that the Department of Education develop examples of local policies and assist in staff development. The Human Rights Commission comments suggested that county boards of education should be encouraged to involve community agencies in local policy development and prevention programs. These suggested changes have been made in the revised policy.

Impact:

Each county board of education, RESA and the state department of education will need to develop: a harassment prevention plan; a reporting and investigation system; and a system to assess the effectiveness of their efforts. In addition, each must develop an education program to explain the policies and procedures and to increase sensitivity and awareness of other races, cultures and religions as well as to help students and staff become more responsible in their behavior toward others.

December 16, 1996

126 CSR 18 LEGISLATIVE RULES BOARD OF EDUCATION

RACIAL, SEXUAL, RELIGIOUS/ETHNIC HARASSMENT AND VIOLENCE POLICY (2421)

§126-18-1. General.

- 1.1. Scope. This rule sets the requirements for schools in West Virginia to be harassment and violence free.
- 1.2. Authority. West Virginia Constitution, Art XII §2 and West Virginia Code 18-2-5, 18-2-5a, and 18-2-7b.
- 1.3. Filing Date. December 16, 1996
- 1.4. Effective Date. January 16, 1997
- 1.5. Repeal of former rule — None

§126-18-2. Purpose.

2.1. The purpose of these regulations is to prevent racial, sexual or religious/ethnic harassment or violence toward students and staff, to protect the academic environment, and to assure that our educational institutions respond to harassment and/or violence incidents when they occur in a manner that effectively deters future incidents and affirms respect for individuals. These regulations require county boards to design and implement prevention and response programs, to outline investigatory and reporting procedures and to delineate penalties for violations of this policy. To the extent possible, county boards will collaborate with other state and local agencies in carrying out the purpose of this rule. It is the intent of the State Board to ensure that the learning and working environments are free from any type of harassment or violence.

§126-18-3. Application.

3.1. These regulations apply to any student, staff member or member of the public during any school related activity or during any education sponsored event whether in a building or other property used or operated by a county board of education, RESA or state department of education or in another facility being used by any of those agencies. The term "staff members," as used in these regulations, shall encompass

all employees of the county board of education or other applicable local agency or facility.

3.2. No student, staff member or member of the public, during any school related activity or during any education sponsored event, whether in a building or other property used or operated by a county board of education, RESA or the West Virginia Department of Education or in another facility being used by any of those agencies, shall engage in sexual, racial or ethnic/religious harassment or violence. Persons found to have violated this prohibition shall be subject to the penalties in Section 8.1.

3.3. Amorous relationships between staff members and students are prohibited, and staff members found to have violated this prohibition shall be subject to the penalties outlined in Section 8.1.

§126-18-4. Definitions.

4.1. Sexual Harassment - Sexual harassment consists of unwelcome sexual advances, requests for sexual favors, sexually motivated physical conduct or other verbal or physical conduct or communication of a sexual nature when:

4.1.1. submission to the conduct or communication is made a term or condition, either explicitly or implicitly, of obtaining or retaining employment, or of obtaining an education; or

4.1.2. submission to or rejection of that conduct or communication by an individual is used as a factor in decisions affecting that individual's employment or education;

4.1.3. that conduct or communication has the purpose or effect of substantially or unreasonably interfering with an individual's employment or education; or creating an intimidating, hostile or offensive employment or educational environment.

4.1.4. sexual harassment may include, but is not limited to:

- a. unwelcome verbal harassment of a sexual nature or abuse;
- b. unwelcome pressure for sexual activity;
- c. unwelcome, sexually motivated or inappropriate patting, pinching or physical contact;
- d. unwelcome sexual behavior or words, including demands for sexual favors, accompanied by implied or overt threats concerning an individual's employment or educational status;
- e. unwelcome sexual behavior or words, including demands for sexual favors, accompanied by implied or overt promises of preferential treatment with regard to an individual's employment or educational status;
- f. unwelcome behavior, verbal or written words or symbols directed at an individual because of gender;
- g. the use of authority to emphasize the sexuality of a student in a manner that prevents or impairs that student's full enjoyment of educational benefits, climate or opportunities.

4.2. Racial Harassment - Racial harassment consists of physical, verbal or written conduct relating to an individual's race when the conduct:

4.2.1. has the purpose or effect of creating an intimidating, hostile or offensive working or academic environment;

4.2.2. has the purpose or effect of substantially or unreasonably interfering with an individual's work or academic performance; or

4.2.3. otherwise adversely affects an individual's employment or academic opportunities.

4.3. Religious/Ethnic Harassment - Religious/ethnic harassment consists of physical, verbal or written conduct which is related to an individual's religion or ethnic background when the conduct:

4.3.1. has the purpose or effect of creating an intimidating, hostile or offensive working or academic environment;

4.3.2. has the purpose or effect of substantially or unreasonably interfering with an individual's work or academic performance; or

4.3.3. otherwise adversely affects an individual's employment or academic opportunities.

4.4. Sexual Violence - Sexual violence is a physical act of aggression or force or the threat thereof which involves the touching of another's intimate parts, or forcing a person to touch any person's intimate parts. Intimate parts include the primary genital area, groin, inner thigh, buttocks or breast, as well as the clothing covering these areas.

4.4.1. sexual violence may include, but is not limited to:

- a. touching, patting, grabbing or pinching another person's intimate parts, whether that person is of the same sex or the opposite sex;
- b. coercing, forcing or attempting to coerce or force the touching of anyone's intimate parts;
- c. coercing, forcing or attempting to coerce or force sexual intercourse or a sexual act on another; or
- d. threatening to force or coerce sexual acts, including the touching of intimate parts or intercourse, on another;
- e. threatening or forcing exposure of intimate apparel or body parts by removal of clothing.

4.5. Racial Violence - Racial violence is a physical act of aggression or assault upon another because of, or in a manner reasonably related to, race.

4.6. Religious/Ethnic Violence - Religious/ethnic violence is a physical act of aggression or assault upon another because of, or in a manner reasonably related to, religion or ethnicity.

4.7. Assault - Assault is:

4.7.1. an act done with intent to cause fear in another of immediate bodily harm or death;

4.7.2. the threat to do bodily harm to another with present ability to carry out the threat.

§126-18-5. Planning by Local Boards of Education.

5.1. County boards of education, RESAs and the West Virginia Board of Education shall develop a plan or plans for the implementation of this policy. These plans shall reflect the particular needs of students to study and learn in an environment free from harassment and violence and the particular needs of staff members to work in an environment free from harassment and violence. To the maximum extent possible, these plans shall be developed collaboratively with state and local agencies that share the purposes of this policy.

§126-18-6. Complaint Procedures.

6.1. County boards of education, RESAs and the state department of education shall develop procedures to assure that any person who believes he or she has been the victim of religious/ethnic, racial or sexual harassment or violence by a pupil, teacher, administrator or other school personnel of the county board of education, or any person with knowledge or belief of conduct which may constitute religious/ethnic, racial or sexual harassment or violence toward a pupil, teacher, administrator or other school personnel has an identified mechanism to report the alleged acts immediately to an appropriate official designated by the agency's policy. Nothing in this policy shall prevent any person from reporting harassment or violence directly to the county superintendent, RESA executive director or the state superintendent, as appropriate, or to the West Virginia Human Rights Commission, or to a law enforcement agency.

6.2. County Boards of Education, RESAs and the West Virginia Department of Education shall develop appropriate procedures for investigating, reporting, and responding to violations of this policy in a manner that promotes understanding and respect. The West Virginia Department of Education shall provide each agency with a list of resources to assist in developing these procedures.

6.3. All alleged incidents of harassment or violence observed by faculty or staff must be reported to the designated investigator and appropriate action should be taken as specified in §126-18-7 and §126-18-8.

6.4. Under certain circumstances, sexual harassment may constitute child and/or sexual abuse under Chapter 49 of the West Virginia Code. In such situations, the county board of education shall comply with the provisions of law for reporting such abuse.

§126-18-7. Investigation.

7.1. The individual(s) designated by the policy to investigate shall, upon receipt of a report or complaint alleging religious/

ethnic, racial or sexual harassment or violence, immediately undertake or authorize an investigation. The investigation may be conducted by agency officials or by a third party designated by the agency in accordance with this policy and the plan developed pursuant to Section 126-18-5.

7.2. The investigation must at a minimum consist of personal interviews with the complainant, the individual(s) against whom the complaint is filed, and others who may have knowledge of the alleged incident(s) or circumstances giving rise to the complaint. The investigation may also consist of any other methods and review of circumstances deemed pertinent by the investigator.

7.3. The agency shall determine whether the alleged conduct constitutes a violation of this policy.

7.4. In determining the appropriate response and/or punishment, the agency should consider the surrounding circumstances, the nature of the behavior, past incidents or past or continuing patterns of behavior, the relationships between the parties involved and the context in which the alleged incidents occurred. Whether a particular action or incident constitutes a violation of this policy requires a determination based on all the facts and surrounding circumstances.

7.5. The agency may take immediate steps, at its discretion, to protect the complainant, pupils, teachers, administrators or other personnel pending completion of an investigation of alleged religious/ethnic, racial or sexual harassment or violence.

7.6 The investigation will be completed as soon as practicable. The investigator shall make a written report to the head of the agency upon completion of the investigation. If the complaint involves the head of the agency, the report may be filed directly with the agency's governing board. The report shall include a determination of whether the allegations have been substantiated as factual and whether they appear to be violations of this policy.

7.7. The result of the investigation of each complaint filed under these procedures will be reported in writing to the complainant or his/her legal guardian by the head of the agency, or, if the head of the agency is the subject of the complaint, by the president of the agency's governing board.

7.8. Confidentiality of the filing of complaints, the identity of subjects and witnesses of any complaint and of any action taken as a result of such complaint is essential to the effectiveness of this policy. Only those individuals necessary for the investigation and resolution of the complaint shall be given information about it. Therefore, the right of confidentiality of complainants, subjects, witnesses, and investigators will be vigorously protected and violations of such confidentiality may itself be grounds for disciplinary action.

§ 126-18-8. Agency Action and Reporting.

8.1. Upon receipt of a report substantiated by the investigation, the head of the agency or the agency's governing board will take appropriate action against those found to have violated this

policy. Such action may include, but is not limited to, warning, suspension, exclusion, expulsion, termination and revocation of licensure.

8.2. The head of the agency or the agency's governing board shall also initiate such other action as is appropriate to ease tensions and to affirm the values of respect and understanding, in accordance with the agency's plan developed pursuant to §126-18-5.

8.3. The head of the agency shall immediately file a report with the West Virginia Department of Education of all reports of harassment or violence when investigation shows that harassment or violence did occur and all action taken in response to the incident.

§126-18-9. Reprisal.

9.1. The agency will develop discipline procedures to take appropriate action against any pupil, teacher, administrator or other school personnel who retaliates against any person who reports alleged religious/ethnic, racial or sexual harassment or violence or any person who testifies, assists or participates in an investigation, or who testifies, assists or participates in a proceeding or hearing relating to such harassment or violence. Retaliation includes, but is not limited to, any form of intimidation, reprisal or harassment. The agency will develop a discipline process to take appropriate action against any pupil, teacher, or administrator or other school personnel who falsely reports religious/ethnic, racial, or sexual harassment.

§126-18-10. Right to Alternative Complaint Procedures.

10.1. These procedures do not deny the right of any individual to pursue other avenues of recourse which may include filing charges with the West Virginia Human Rights Commission, initiating civil action or seeking redress under the state criminal statutes and/or federal law.

§126-18-11. Prevention Programs.

11.1. Each agency must develop and implement an education program for each programmatic level, K-4, 5-8, and 9-12, as well as a program for all faculty and staff. The programs, at a minimum, must: raise awareness of the different types of harassment; how it manifests itself; its devastating emotional and educational consequences; and its legal consequences. In addition, multicultural education programs must be developed and implemented for faculty, staff and students to foster an attitude of understanding and acceptance of individuals from a variety of cultural, ethnic, racial and religious backgrounds.

§ 126-18-12. Dissemination of Policy and Training.

12.1. This policy or a summary shall be conspicuously posted throughout each agency's facilities in areas accessible to pupils and staff members.

12.2. This policy shall appear in the student and staff handbooks, and, if no handbook is available, a copy will be distributed to all students, faculty, and staff.

12.3. The agency will develop and implement training for

students and staff on these regulations and on means for effectively promoting the goals of this policy.

12.4. The agency policy shall be reviewed at least bi-annually for compliance with state and federal law and state board of education policy.

§126-18-13. Assessment of Effectiveness.

13.1. The West Virginia Department of Education will prepare an annual report to the West Virginia Board of Education to include: reported and substantiated incidences of harassment and/or violence; action taken in response to incidents; training and staff development offered by the agencies; and agency reported numbers and types of multicultural education offerings.

December 16, 1996

SUGGESTED STUDENT HANDBOOK POLICY INFORMATION

Racial, Sexual, Religious, Ethnic Harassment and Violence
Policy (Policy 2421)

It is the policy of _____ County Schools that racial, sexual, religious/ethnic harassment and violence will not be tolerated under any circumstances. We firmly believe that all persons are to be treated with respect and dignity. Harassment and violent incidents will be responded to in a manner that effectively deters future incidents.

Racial, sexual, religious/ethnic harassment and violence refers to unwelcome and unwanted behavior related to sex, race, religion, or ethnic group that makes the recipient feel afraid, embarrassed, helpless, angry or unsafe or upsets the recipient to the point that he/she cannot learn, cannot teach or be effective at school or at his/her job.

Harassment and violence is prohibited between staff members, between staff members and students, between students, and from members of the public directed at students or staff on school property or at school sponsored events. Some examples of harassment and violence may include, but are not limited to: unwelcome patting, pinching, or physical contact; obscene gesturing or calling someone gay; ethnic or racial slurs; or threats, insults, or assaults against someone due to their sex, race, religion or ethnic group.

If a staff member or student feels that his/her emotional well-being, his/her sense of safety and security or sense of self-worth is being affected by such conduct, a complaint should be filed by contacting his/her school principal or by calling:

Name of designated investigator(s):

(county or school determined)

Name of county:

Phone number:

A complete copy of the WV Board of Education Policy 2421 may be obtained from the [local] _____ Board of Education by calling _____.

_____ COUNTY SCHOOLS HARASSMENT COMPLAINT FORM STUDENT COMPLAINT

Name: _____

Date: _____

School: _____

Who was responsible for the harassment? _____

Describe the harassment. _____

(Attach additional pages if necessary)

Date(s), time(s), and place (places) the harassment occurred. _____

Were there other individuals involved in the harassment? _____

If so, name the individual(s) and what their role was. _____

Did anyone witness the harassment? _____ If so, name the witnesses. _____

What was your reaction to the harassment?

Describe any prior incidents.

Signature of Complainant or Parents/Legal Guardians

White Copy: School
Yellow Copy: County Office
Pink Copy: Student/Parents Copy

Memorandum of Understanding between New Jersey Education and Law Enforcement Officials

Concerning Suspected Hate Crimes or Bias Incidents Occurring on School Grounds or Involving Students

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MEMORANDUM OF AGREEMENT BETWEEN EDUCATION AND LAW ENFORCEMENT OFFI- CIALS CONCERNING SUSPECTED HATE CRIMES OR BIAS INCIDENTS OCCURRING ON SCHOOL GROUNDS OR INVOLVING STUDENTS

PREAMBLE

The parties to this Agreement hereby pledge their continuing commitment to work together to address the evolving problem of hate crimes and bias incidents, as defined herein, which may occur on school grounds or which may involve students. It is the avowed policy of the undersigned parties to treat all suspected or confirmed hate crimes and bias incidents as serious matters which deserve a prompt, firm and predictable response. The parties to this Agreement recognize that one of the best hopes for deterring this form of anti-social conduct is to affirm, by word and by deed, that such acts will not be tolerated. The parties further recognize the need to have in place clearly defined policies and procedures so that all law enforcement officers, school administrators and professional staff members and other employees of the school district will know what they are expected to do in the event of the commission of a hate crime or bias incident on school grounds or involving school-aged children.

The parties further recognize that because the problem of hate crimes and bias incidents is evolving, it will be necessary periodically to confer and to refine the policies, procedures and protocols set forth in this Memorandum of Agreement so as to remain responsive to emerging threats and so as best to protect the interests and well being of all school children, other members of the school community and members of the community-at-large.

ARTICLE I. STATEMENT OF POLICIES, FIND- INGS AND OBJECTIVES.

1. Regrettably, hate crimes and bias incidents occur with alarming frequency in our society. The communities victimized by this form of anti-social behavior are gripped by uncertainty, tension and conflict. Hate crimes and bias incidents, by their nature, are confrontational, inflame tensions and promote social hostility. These acts jeopardize the active and open pursuit of freedom and opportunity. They represent nothing less than a direct attack upon the racial, religious and ethnic heritage of our citizens.

2. Recently, the New Jersey Legislature has adopted laws which make it especially serious crimes for persons to commit certain predicate offenses where these persons act, at least in part, with ill will, hatred or bias toward, and with a purpose to intimidate, an individual or group of individuals because of race, color, religion, sexual orientation or ethnicity. The parties to this Agreement recognize that such laws are designed to punish conduct, not speech. The parties to this Agreement recognize in this regard that the First Amendment of the United States Constitution, and its State constitutional counterpart guarantee freedom of expression, which includes the right to express bigotry, hatred and ignorance. However, the

parties to this Agreement further recognize that the application of First Amendment principles is different with respect to speech or conduct occurring in elementary and secondary schools. Accordingly, it is well accepted that school administrators have a legitimate interest in preserving the order and decorum of schools, and that certain forms of speech, though otherwise protected under the First Amendment, may impinge on other student's rights, may impermissibly disrupt the orderly operation of a school and thus materially and substantially interfere with the requirements of appropriate discipline of a school.

3. Although all hate crimes and bias incidents are serious matters which deserve prompt attention by appropriate law enforcement authorities, the parties to this Agreement recognize that such incidents are especially serious when they occur on school grounds or involve school-aged children. Hate crimes and bias incidents by their nature have the great potential to disrupt the educational environment and thereby deprive students and educators of their fundamental rights.

4. The parties further recognize that school-aged children are especially vulnerable to the emotional injury often associated with the commission of hate crimes and bias incidents. Too often, such acts may have lasting, negative effects on the social development of child victims. Moreover, while hate crimes and bias incidents are likely to provoke a violent response even when committed against adult victims, the parties to this Agreement recognize that the potential for violent retaliation is even greater when such acts are committed against adolescent victims, who may not yet possess the social skills or maturity to address their frustrations and anger without resorting to violence.

5. The parties to this agreement recognize that what may at first blush appear to be a minor incident can quickly escalate into an order maintenance problem affecting the public safety. The parties thus recognize that the effects of a given hate crime or bias incident may extend well beyond the confines of school grounds, and may lead, for example, to retaliatory action taken outside of school grounds or outside normal operating school hours.

6. The parties to this Agreement further understand the nature of the so-called "copycat" phenomenon, whereby a given hate crime or bias incident can lead to the commission of similar incidents. Experience has shown that the problem is exacerbated where the official response to a given hate crime or bias incident is weak or tentative. In essence, the failure to take stern, prompt and decisive action in response to a hate crime or bias incident may serve unwittingly to enable or otherwise encourage the commission of further hate crimes and bias incidents. The parties further recognize that a prompt response is essential to defuse a potentially volatile situation, to prevent further physical or emotional injury, and to assist in the identification and apprehension of the person or persons who committed the bias incident or hate crime.

7. In sum, and for all of the foregoing reasons, the parties to this Agreement affirm their belief that hate crimes and bias incidents are simply incompatible with the basic educational mission and the environment of a school.

8. The problem of hate crimes and bias incidents is an evolving one, and statistics reported by the Attorney General reveal that the problem is growing. It is at least possible that this may be the result of a reporting phenomenon, where more citizens have become more keenly aware of the impact of hate crimes and bias incidents, and are more willing to report such acts because they earnestly expect that public officials will respond appropriately. It is imperative for the undersigned parties to take such actions as are necessary and appropriate to ensure and enhance public confidence in the ability and commitment of government officials to take affirmative actions in response to these types of offenses.

9. Statistics compiled as part of the Uniform Crime Reporting System confirm that many hate crimes are committed by children. Often, these offenders are motivated by ignorance as much as by hate, and some offenders seem to be attempting to gain attention to themselves by committing acts which many of them believe to be little more than childish pranks. Even so, the parties to this Agreement recognize that such acts, even if committed out of ignorance more than actual hate, are hurtful and disruptive, and cannot and will not be tolerated in this jurisdiction.

10. The parties to this Agreement recognize that we all have a responsibility to protect the rights and interests of children, and to ensure their emotional well being. It shall be the overriding policy established in this Memorandum of Agreement to provide students with a safe environment, one which is conducive to learning and which is free of violence, fear and intimidation.

11. The parties recognize that attendance at school provides young citizens with what is likely to be their first exposure to different cultures. Schools provide a natural setting where young people can learn the social skills which will largely determine their future attitudes and beliefs, their respect for the institutions of government, and their tolerance for persons of different religions, races, colors and ethnic backgrounds.

12. The parties to this Agreement recognize that some bias-based acts committed in schools may warrant a firm and decisive response even though, technically, such acts are not crimes and thus do not invoke the limited jurisdiction of the criminal and juvenile justice systems. The parties recognize in this regard that the definition of "bias incident," as set forth herein, is broader than the definition of "hate crime," so that certain bias incidents, though deserving of condemnation, discipline and remediation, do not constitute hate crimes which could be prosecuted by police and prosecuting agencies.

13. Despite the recent adoption of legislation condemning hate crimes, it is difficult for many people fully to appreciate what it feels like to be part of an ethnic, racial or religious group which has been terrorized or subject to this form of purposeful intimidation.

14. In responding to the evolving problem of hate crimes and bias incidents, the parties recognize that they must not focus entirely on responding to those persons who commit these anti-social or criminal acts; rather, the parties recognize the

need also to work with the victims of these acts so as to reduce their trauma, as well as to reduce and redress community tensions and fears by reaching out to victims and potential victims.

ARTICLE II. DEFINITIONS.

As used in this Memorandum of Agreement:

"Hate crime" means any suspected or confirmed offense or unlawful act which is directed at or occurs to a person, private property, or public property on the basis of race, color, religion, sexual orientation or ethnicity. An offense is bias-based and thus constitutes a hate crime for the purposes of this Agreement if the motive for the commission of the offense or unlawful act is racial, religious, ethnic or pertains to sexual orientation. The designated bias incident offenses under New Jersey law are as follows:

- | | |
|--|--|
| 1. Murder | 11. Criminal Mischief |
| 2. Manslaughter | 12. Damage to Property;
Threat of Violence
(N.J.S.A. 2C:33-11) |
| 3. Rape | 13. Weapons Offense |
| 4. Robbery | 14. Sex offenses (other
than rape) |
| 5. Aggravated Assault | 15. Terroristic Threats |
| 6. Burglary | 16. Trespass |
| 7. Larceny-Theft | 17. Disorderly Conduct |
| 8. Simple Assault | 18. Harassment |
| 9. Fear of Bodily Violence
(N.J.S.A 2C:33-10) | 19. Desecration of Venerated
Objects |
| 10. Arson | |

"Bias incident" means any suspected or confirmed act which is directed against or occurs to a person, private property, or public property on the basis of race, color, religion, sexual orientation or ethnicity. An act is bias-based and thus constitutes a bias incident for the purposes of this Memorandum of Agreement if the motive for the commission of the act is racial, religious, ethnic or pertains to sexual orientation. A bias incident need not involve an act which constitutes an offense.

In order more fully to understand what conduct constitutes a hate crime or bias incident, the _____ County Prosecutor's Office, working in conjunction with the Attorney General's Office of Bias Crime and Community Relations, will develop materials which provide examples of conduct which constitutes a hate crime or bias incident, as well as materials which describe the elements of the designated bias incident offenses under New Jersey law. These materials shall be made available to persons participating in training programs provided pursuant to Article VII of this Memorandum of Agreement, and should be consulted in determining whether a given act constitutes a hate crime or bias incident. Any questions concerning whether a given act constitutes a hate crime or bias incident may be directed to the _____ County Prosecutor's Office in accordance with the provisions of Article VI C. of this Memorandum of Agreement.

ARTICLE III. REFERRAL PROCEDURES.

A. Mandatory Referral of Suspected Hate Crimes.

Whenever any school employee in the course of his or her employment develops reason to believe that 1) a hate crime or bias incident has been committed or is about to be committed on school property or has been or is about to be committed by any student, whether on or off school property and whether or not such offense was or is to be committed during operating school hours, or 2) that a student enrolled in the school has been or is about to become the victim of a hate crime or bias incident, whether committed on or off school property or during operating school hours, the school employee shall immediately notify the building principal and superintendent, who in turn shall promptly notify the _____ Police Department and the Bias Investigation Officer for the _____ County Prosecutor's Office, provided however that the building principal or superintendent of schools will immediately notify the _____ Police Department or the _____ County Prosecutor's Office Bias Officer where there is any reason to believe that an act of violence has been or is about to be physically committed against a student or there is otherwise reason to believe that a life has been or will be threatened.

B. Presumptive Referral of Suspected Bias Incidents.

Whenever any school employee in the course of his or her employment develops reason to believe that a bias incident has been committed or is about to be committed on school property, or has been or is about to be committed by any student, whether on or off school property and whether or not such bias incident was or is to be committed during operating school hours, the school employee should immediately notify the building principal and superintendent, who in turn should promptly notify the _____ Police Department.

In deciding whether to refer the matter to the _____ Police Department or _____ County Prosecutor's Office, the principal of the school or his or her designee should consider the nature and seriousness of the conduct and the risk that the conduct posed to the health, safety or well-being of any student, school employee or member of the general public. The building principal and superintendent should also consider that the _____ Police Department or the _____ County Prosecutor's Office may possess or have access to other information which could put the suspected bias incident in proper context, could shed light on the motivation for the act, or may help to identify the person who committed the suspected bias incident or some other unsolved hate crime. Furthermore, the building principal and superintendent should consider the possibility that the suspected bias incident could escalate or result in some form of retaliation which might occur within or outside school property.

C. Nature of Referral

It is understood and agreed that a mandatory or presumptive referral to the _____ Police Department or _____

County Prosecutor's Office pursuant to this Article is only a request to conduct an investigation and constitutes nothing more than the transmittal of information which might be pertinent to any such law enforcement investigation. The parties understand and agree that a referral pursuant to this Article is not an accusation or formal charge. Accordingly, it is understood and agreed that a referral pursuant to this Article is predicated on the basis of a reasonable suspicion, which is less than probable cause to believe that a hate crime or bias incident has been committed, less than the proof sufficient to sustain an adjudication of delinquency or a finding of guilt in a court of law, and less than the proof sufficient to justify the imposition of school discipline. Accordingly, and given the nature and purpose of a referral, the parties hereby agree and understand that all doubts should be resolved in favor of referring a matter to the _____ Police Department or the _____ County Prosecutor's Office

D. Concurrent Jurisdiction.

Unless the _____ Police Department or the _____ County Prosecutor's Office requests otherwise, it is understood and agreed that school officials may continue to investigate a suspected hate crime or bias incident occurring on school property, and may take such actions as are necessary and appropriate to redress and remediate any such act. The parties to this Agreement understand that school officials have an independent authority to conduct investigations and to discipline students who violate school rules, regulations or codes of conduct, which may include but need not be limited to the imposition of an in-school suspension. The parties understand that the imposition of such discipline does not in any way constitute "double jeopardy" or otherwise limit, preempt or preclude any appropriate action by a law enforcement agency, a Juvenile Conference Committee or a Juvenile Court.

Where the _____ Police Department or the _____ County Prosecutor's Office believes that the continuing conduct of a concurrent investigation, or the imposition of any form of school discipline, would in any way jeopardize an ongoing law enforcement investigation, or otherwise endanger the public safety, the _____ Police Department or the _____ County Prosecutor's Office shall immediately notify the school principal and the superintendent of schools, whereupon the school principal and superintendent will immediately discontinue any ongoing school investigation, and will take no further action without providing notice to and receiving the assent of the _____ Police Department or the _____ County Prosecutor's Office.

ARTICLE IV. PRESERVATION OF EVIDENCE.

The parties to this Agreement understand and appreciate the importance of delicately balancing the need to preserve physical evidence so that persons who commit hate crimes or bias incidents can be quickly apprehended and fully and fairly prosecuted, as against the need to minimize the harm associated with the continued exposure to children of bias-based graffiti and other forms of physical evidence of a bias crime or hate incident.

School officials hereby agree to secure and preserve any such graffiti or other evidence of a suspected hate crime or bias incident pending the arrival of the _____ Police Department or the _____ County Prosecutor's Office. Where feasible, such graffiti or other evidence should be covered or concealed in a manner designed to minimize the harm and continued exposure to students of such evidence, but which will not permanently damage or destroy such evidence or otherwise limit its utility in an ongoing investigation or prosecution.

The _____ Police Department and the _____ County Prosecutor's Office agree to photograph or otherwise document the location and content of any such graffiti or other bias-based evidence as soon as possible, so that such graffiti or other evidence may be permanently painted over, sandblasted, or otherwise removed or eliminated at the earliest opportunity.

ARTICLE V. LAW ENFORCEMENT RESPONSE TO MANDATORY AND PRESUMPTIVE REFERRALS.

A. Prompt Response.

The _____ Police Department and the _____ County Prosecutor's Office agree to treat all matters involving suspected or confirmed hate crimes or bias incidents occurring on school property or involving school-aged children as serious matters which warrant a prompt, decisive and thorough law enforcement response. The _____ Police department and/or the _____ County Prosecutor's Office agree to respond promptly to any referral made pursuant to Article III of this Memorandum of Agreement, provided, however, that the _____ Police Department or the _____ County Prosecutor's Office will immediately dispatch an officer to the scene of a suspected school-based hate crime or bias incident where the building principal or school superintendent has conveyed the fact that the suspected act involved actual violence against a student or involves a threat against the life of a student, school employee or any other person. Furthermore, the _____ Police Department and the _____ County Prosecutor's Office agree to respond as soon as possible to any suspected incident involving bias-based graffiti or other such evidence so that such graffiti or other evidence can be photographed or otherwise documented in accordance with the provisions of Article IV of this Memorandum of Agreement and so that the graffiti or other evidence can be removed or otherwise destroyed at the earliest possible opportunity in order to minimize continued exposure and harm to the student population.

B. Protective Services.

The _____ Police Department and the _____ County Prosecutor's Office are available on request, and subject to the availability of resources, to provide protective services to any victim or potential victim of a hate crime. The _____ Police Department and the _____ County Prosecutor's Office agree to take such steps as are necessary and appropriate in the circumstances to prevent further violence or harm committed

against a victim, or to prevent a violent retaliation or any other physical or psychological harm directed against any student or any person. The responding law enforcement officer shall evaluate the circumstances of the suspected or confirmed hate crime or bias incident and shall report to his or her superiors immediately concerning the need for providing any such protective services to or on behalf of any victim or potential victim.

C. Full Investigation.

The _____ Police Department and/or the _____ County Prosecutor's Office shall upon receipt of any information pursuant to Article III of this Memorandum of Agreement conduct a full and thorough investigation in accordance with the Bias Incident Investigation Standards promulgated by the Attorney General.

D. Advice as to Bias Incident Investigation Standards and Juvenile Justice System Practices and Procedures.

The _____ Police Department and the _____ County Prosecutor's Office shall be available on an ongoing basis to explain to school officials the provisions and requirements of the Bias Incident Investigation Standards promulgated by the Attorney General, and the practices and procedures of the juvenile justice system with respect to the handling of juveniles suspected of or formally charged with acts of bias-based delinquency. The _____ Police Department and the _____ County Prosecutor's Office shall also provide on an ongoing basis information concerning the services and resources available within the juvenile justice system to deal with bias-based acts of delinquency, including stationhouse adjustments, referrals to juvenile conference committees and other pre-adjudication diversion programs, and post-adjudication disposition options which are available in the county.

E. Agreement Not to Disrupt School Environment or Activities.

The _____ Police Department and the _____ County Prosecutor's Office hereby agree that in conducting an investigation into a suspected or confirmed hate crime or bias incident in accordance with the Attorney General's Bias Incident and Investigation Standards, the _____ Police Department and the _____ County Prosecutor's Office will minimize to the greatest extent possible any disruption of the school environment and school activities. Accordingly, in the absence of compelling and extraordinary circumstances, the _____ Police Department and the _____ County Prosecutor's Office will not conduct interviews of students with respect to a suspected or confirmed hate crime or bias incident during normal school operating hours without first providing notice to the building principal and superintendent of schools.

F. Notification by Police.

Where a formal complaint is filed against a student for any offense which if committed by an adult would be an indictable hate crime, the _____ Police Department or the

_____ County Prosecutor's Office will, in accordance with the provisions of N.J.S.A. 2A-4A-60c, provide information on a confidential basis to the building principal of the school at which the student is enrolled concerning the offense charged and any resulting adjudication or disposition.

G. Arrest Protocols.

The _____ Police Department and the _____ County Prosecutor's Office hereby reaffirm their commitment to comply with the arrest protocols as set forth in Article 2 Section G of the "Memorandum of Understanding Between Education and Law Enforcement Officials Concerning Law Enforcement Activities Occurring on School Grounds and the Reporting of Suspected Drug and other Offenses by School Officials To Law Enforcement Authorities," which arrest protocols and procedures are hereby incorporated by reference and adopted herein.

ARTICLE VI. VICTIMS SERVICES.

A. Availability of Services.

The _____ County Prosecutor's Office maintains a Victim/Witness Unit which provides services to all victims of crime in _____ County. The _____ County Prosecutor's Office remains available to provide counseling and other services to the victims or potential victims of hate crimes and bias incidents. All requests for victim/witness services should be directed by the building principal or local superintendent of schools to the _____ County Prosecutor's Office.

B. Predisposition Impact Statement.

In the event that a hate crime or bias incident results in a criminal conviction or adjudication of delinquency, the _____ County Prosecutor's Office will solicit information from all victims, potential victims and other members of the school community who were in any way harmed or traumatized by the unlawful act. Such information shall be included in a "community impact statement" which will be provided to the court by the county prosecutor and which will serve to advise the court as to the true impact of the offense and its effect on school children and the residents of the affected community, so as to begin the difficult healing process following the conviction or adjudication of delinquency. The _____ County Prosecutor's Office will solicit the input and assistance of the building principal, the local superintendent of schools and other appropriate school employees, as may be designated by the building principal or local superintendent, to ensure the prompt preparation of a thorough and accurate community impact statement for use by the courts. No student shall be solicited for input in the development or preparation of a community impact statement without a representative of the Prosecutor's Office first providing notice to the building principal and local superintendent.

C. Legal Advice.

The _____ County Prosecutor's Office shall be available on a 24-hour basis to answer any questions posed by the building

principal or the local superintendent of schools regarding New Jersey's laws concerning hate crimes or bias incidents, the Bias Incident Investigation Standards promulgated by the Attorney General, or the implementation of this Memorandum of Agreement. Nothing in this Article shall be construed in any way to preclude the building principal, local superintendent or any other school official from soliciting legal advice from the school board attorney or any other attorney representing the school district.

D. Seminars and Public Education Concerning Hate Crimes and Bias Incidents.

Representatives from the _____ Police Department and the _____ County Prosecutor's Office will be available upon invitation of the building principal and local school superintendent to address students, teachers and/or parents concerning the nature, prevalence and impact of hate crimes and bias incidents.

E. Instruction to Students.

The parties to this Agreement understand and accept that education emerges as one of the most promising means available by which to promote racial, ethnic and religious tolerance and by which to prevent the commission of hate crimes and bias incidents. Toward that end, a number of innovative programs and curricula have been developed by numerous organizations, which are designed to teach students about the nature and history of discrimination. For example, the Department of Education and the Attorney General's Office of Bias Crime and Community Relations has developed a Prejudice Reduction Education Program. It is understood and agreed that education officials are at all times ultimately responsible for providing, supervising, monitoring, evaluating and otherwise ensuring the consistent high quality of all educational curricula and instructional programs provided to students, whether the instruction is to be provided generally to the student population as part of the regular curriculum or is to be provided to select students who are subject to in-school suspension or any other form of school-based discipline. It is understood and agreed that no law enforcement officer shall be permitted to provide a course of instruction to students, or to address students on the subject of hate crimes or bias incidents in an assembly, unless the officer has been invited or requested to provide such course of instruction or address by the building principal or local superintendent, or the course of the instruction has been approved by an appropriate school official.

ARTICLE VII. TRAINING.

The parties to this agreement recognize that the enlightened principles, policies and procedures established herein to address the evolving problem of hate crimes and bias incidents occurring on school property or involving school students can only work where steps are taken to make certain that all school employees, including but not limited to professional staff members, are aware of the rights and responsibilities established in this Memorandum of Agreement. So as to foster and initialize the spirit of communication and cooperation underlying this Agreement, the chief school administrator hereby agrees to establish a training program, to be developed in conjunction with the _____ Police Department and the _____ County Prosecutor's Office, to provide instruction and orientation to all appropriate school district employees concerning the need for and provisions of this Memorandum of Agreement. This instruction and orientation program shall stress the importance of responding promptly,

decisively, and predictably to all suspected or confirmed hate crimes or bias incidents occurring on school property or involving students. The _____ Police Department and the _____ County Prosecutor's Office remain available to assist in any way necessary in developing or providing this orientation to school staff.

ARTICLE VIII. MAINTENANCE OF THE AGREEMENT.

A. Revisions.

This Memorandum of Agreement shall remain in full force and effect until such time as it may be modified. Modification of this Agreement will be effected only with the mutual agreement of the _____ Superintendent of Schools, the _____ County Superintendent of Schools, the _____ Police Department and the _____ County Prosecutor. Modification required by a change in state or federal law, rules or regulations or applicable guidelines or executive directives shall be made on the effective date of such revisions of law, regulations, guidelines or directives. All parties to this Agreement will notify the other parties immediately regarding any such legal or regulatory changes.

In addition, it is understood that given the evolving nature of the problem of hate crimes and bias incidents, it will be necessary periodically to review the content and implementation of this Agreement. Accordingly, the _____ County Prosecutor, working in conjunction with the _____ County Superintendent of Schools, the _____ Superintendent of Schools and the _____ Police Department, will not less than once each calendar year organize and conduct a meeting of representatives from the law enforcement and educational communities to discuss the implementation of the provisions of this Memorandum of Agreement, to discuss any other matters of mutual concern, and to recommend necessary revisions to this Agreement.

B. Interpretation of the Agreement.

The parties to this agreement recognize the value of cooperation and communication with respect to the problem of hate crimes and bias incidents as it relates to students and school grounds, and believe that entering into this Agreement will help them to be more effective in dealing with these problems and in making certain that schools are safe havens for law abiding children, and not places where children are subject to hate, violence, intimidation or fear based upon race, religion, ethnic background or sexual orientation.

The parties to this Agreement recognize and affirm that the provisions of this Agreement are designed to supplement, but not to replace, the provisions of the Memorandum of Understanding Between Education and Law Enforcement Officials Concerning Law Enforcement Activities Occurring on School Grounds and the Reporting of Suspected Drug and other Offenses by School Officials to Law Enforcement, which other memorandum of agreement was signed on or about _____, 19____, and which remains in full force and effect. However, to the extent that the provisions of this Memorandum of Agreement are more specific, this agreement shall be deemed to govern.

As an expression of our mutual concern and commitment to students, and to the level of cooperation and understanding described in this Agreement, the undersigned parties do hereby affirm and agree to abide by the standards, procedures, principles and policies set forth in this document.
[Signatures]

Edmonds School District

Mountlake Terrace High School Comprehensive Plan for Addressing Racial and Ethnic Tensions

Marcia Migdal
Multicultural Program
20420 68th Ave. W., Lynnwood, WA 98036-7400
(425) 670-7128 FAX (425) 670-7006

OUR MISSION: To ADVOCATE for all students by PROVIDING a learning environment which EMPOWERS students, staff and the community to MAXIMIZE their personal, creative and academic potential in order to BECOME lifelong learners and responsible world citizens.

The Coordinator for Multicultural Education has worked together with the administration and staff and students of Mountlake Terrace High School (MTHS) to put together and implement this draft comprehensive plan. Following a summary of the actions taken during the 1994-95 school year, the plan makes projections about effective steps to continue efforts begun to strengthen commitment to the goals of the program and institutionalize treatment of multicultural concerns within the everyday operation of the school.

1994-1995

I. School-wide Introduction to Concerns About Intergroup Relations

A. Staff Introduction: Two teachers and the Multicultural Coordinator presented a program to the entire staff as part of a 1/2 day in-service. The program consisted of the viewing of the Teaching Tolerance History of the Civil Rights Movement video, "A Time for Justice." This was followed by a discussion, and then by a format for presenting this to all students. Staff were to lead discussions about the material in this film, as well as its implications for today and for MTHS, in their classrooms.

B. Student Introduction: As part of its commemoration of Dr. Martin Luther King Jr., MTHS presented the video, "A Time for Justice" to all students at the same time, utilizing the Channel 1 video hookup. Teachers in every classroom then conducted discussions on the material. Students were also asked to write impressions and ideas about their own actions, past and future, regarding the quest for justice for all.

C. Several of the student responses were published in the student newspaper, thus continuing the dialogue.

II. Hands Across the Campus: Two staff members and over thirty MTHS students participated in this intergroup relations program arranged through the Multicultural Office. The student component consisted of leadership development training specifically in the area of working for equity and intervening in

incidents of bias, prejudice, etc. The staff members participated in the student training, as well as in a curricular component and a Train the Trainers workshop so that they could serve as building facilitators.

III. Student/Faculty Task Force: This group was called together by the principal. It consisted of the Multicultural Coordinator, the principal, all three assistant principals, the 2 staff members who attended the Hands training and who are student activities coordinators, and 10 - 14 students, some of whom had participated in the Hands Across the Campus training and some newly involved in response to an incident at school. The Task Force met for approximately 6 weeks to block out a plan of action for a comprehensive program for the school. This group also underwent intensive training in facilitating discussions and classroom lessons about racism, prejudice and stereotyping.

IV. Staff Training: The student component of the Task Force conducted a training for the entire staff during a half day in-service session. The focus of the training was on the issues of stereotyping, assumptions and prejudice. The students led the staff through a series of activities and follow-up discussions. The principal then informed the staff that teams of students would be teaching these same activities to every student in the school by presenting to third period classes over a period of 7 days.

V. Student Team Training: Two teachers and the student Task Force members identified a total of 35 students with leadership qualities and concern for equity. Together with the Multicultural Coordinator, the teachers and Task Force students conducted a three-hour training to train the additional students as facilitator teams. The students were trained in the activities which had been presented for the faculty. They received intensive training in facilitating these activities and in leading discussions to explore the implications of these activities. The Student Facilitators were divided into 15 teams of 2 or 3 each. Teams worked together to clarify roles and responsibilities, plan introductions, closings, transitions, etc.

VI. Full School Involvement

A. The two teachers conducted a discussion during a staff in-service. They presented a schedule and sign-up procedures for scheduling a student-facilitated lesson in every third period class in the school. There are a total of 55 third period classes. Several smaller classes were combined together, making a total of 45 classes altogether. Each Student Facilitator Team was to conduct a lesson in three classes during the month of May.

B. Beginning in early May, and continuing throughout the month, student facilitators conducted lessons for their fellow students during a specific time period of the day (third period was chosen). In this manner, it was assured that all students would receive this exposure to activities which helped people think about prejudice, its origins and its impact on others. The Multicultural Coordinator was present on each presentation day to visit all the classrooms and to be available to "trouble-shoot" if problems arose. Since all classroom teachers had already been exposed to the activities, they were also available to help out if the student facilitators needed assistance. Overall, the

facilitators have performed quite well, taking full responsibility for the conduct of the class. The overall reaction has been positive thus far. Some students have had experiences which have begun to change their perspective and understanding of some of these issues such as stereotyping.

VII. Parent/Community Involvement:* MTHS administration made a conscious effort to reach out to minority parents to include them in school-wide activities and decision-making processes by making overtures to insure that minority parents feel welcome and understand that their active participation in their child's education is strongly solicited. In 1994 and 1995, parents were invited to pot-luck meetings to discuss issues of concern. Invitations were sent out in several languages, so that parents could read them and not depend on their children.

1995- 1996

I. Facilitator Group Review: This student group will be convened during the late summer or early fall to review the material and reconstitute the teams to accommodate the loss of senior class members. They will design and prepare a unit to present to freshmen. They will also receive further training to assist them in their role as leaders and facilitators addressing matters of race and bias in the school.

II. Freshman Orientation: All freshmen will be exposed to the lesson designed by the Student Facilitation Teams. This exposure will take place as part of some mandatory freshman class, such as the SOAR class. The focus of the lessons will be two-fold. The first is to initiate 9th graders into the standards and expectations of MTHS regarding respect and intergroup interactions. The second purpose is to work directly with the 9th graders to address matters of racism, stereotyping and prejudice.

III. Rebuild the Facilitator Group: Freshmen and other interested students will be incorporated into the cadre of facilitators remaining after the graduation of seniors. This group, under the facilitation of the Multicultural Coordinator, will continue to explore issues of prejudice and discrimination, to learn new activities and to prepare new lessons for presentation to the entire staff and student body.

IV. School-wide Involvement: On a regular basis, approximately every two months, the Student Facilitators will present lessons, assemblies or other special programs dealing with issues of equity, prejudice, racism, discrimination, etc. to the entire staff and student body. The Student Facilitators will meet throughout the year to review videos and other materials, plan lessons, activities, and discussions appropriate for use with the student body. The intent is to keep an examination of these issues before the student body, and to work with their fellow students, as well as staff, to come to a determination of action steps to continue to improve the school environment and strengthen the atmosphere of respect for all.

V. Staff Development: The Multicultural Coordinator, together with MTHS staff and administration, will continue to develop on-going staff development programs to address concerns of staff and community around matters of diversity and discrimination. The Multicultural Coordinator will continue to alert staff to new materials to incorporate into their curriculum, as well as to additional opportunities to increase their own knowledge with regard to specific ethnic groups, and to the interaction and historical relationships among various groups in the U.S.

VI. Parent/Community Involvement:* Periodic meetings/social gatherings will be held with parents and community groups in the fall. These gatherings will provide an opportunity for parents to make the school aware of concerns and for parents and the school to work together to solve problems and address those concerns. By providing this outreach, it is hoped that such meetings will increase parent involvement as the parents come to know the school personnel and credibility is established through working together toward common goals. Eventually, the desire is for these disparate groups to meet together to solve problems of mutual concern in conjunction with the school and larger Mountlake Terrace community. It is also hoped these meetings will provide an avenue to link the minority parent communities with all of the existing school/parent programs and collaborative efforts.

Future Years

Steps one through six described for 1995-1996 will be repeated in future years, so that each new class of students is introduced to the expectations of MTHS regarding respectful treatment of all and so that this attention to equity becomes institutionalized at MTHS. It should be understood that the comprehensive program described here exists in addition to ongoing efforts to infuse multicultural perspectives throughout all areas of the curriculum. It also supplements on-going work to create and reinforce an atmosphere of mutual respect throughout the school, in and out of classrooms and formal learning situations.

* Includes language from the 1998 Edmonds School District Status of Equity Report.